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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/713,846	11/15/2000	Fred J. Chetcuti	NOVEP005	4803

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EXAMINER

KOCH, GEORGE R

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 02/12/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/713,846

Applicant(s)

CHETCUTI ET AL.

Examiner

George R. Koch III

Art Unit

1734

**SM**  
**#5**

-- **Th MAILING DATE of this communication appears on the cover sheet with the corresponding address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2002.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 21-23, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 21-23, 25, 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Sichmann et al. (USPN 5,863,328). Regarding claim 1, Sichmann et al. disclose a spin bowl comprising: a base and a sidewall that extends from the base, the base has an upper portion and a lower portion that intersects with the sidewall, the lower portion of the base having a plurality of drain holes formed therein proximate to the sidewall, each of the drain holes is configured and capable to trap fluid therein during spinning of the spin bowl to thereby form a fluid seal that prevents air from flowing therethrough (See Col. 3, lines 3-15, Fig. 2, items 14, 56, 18-20).

Regarding claim 3, the sidewall is configured to define a fluid catch area, each drain hole is in fluid communication with the fluid catch area (See Fig. 2, items 56 and 20).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7-12 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sichmann et al. in view of Tung et al. (USPN 6,220,771). Regarding claim 7, Sichmann et al. disclose a spin bowl comprising: a base and a sidewall that extends from the base, the base has an upper portion and a lower portion that intersects with the sidewall, the lower portion of the base having a plurality of drain holes formed therein proximate to the sidewall, each of the drain holes is configured and capable to trap fluid therein during spinning of the spin bowl to thereby form a fluid seal that prevents air from flowing therethrough (See Col. 3, lines 3-15, Fig. 2, items 14, 56, 18-20). Sichmann et al. is silent to a lid. One in the art would appreciate that a lid encloses the spinning chamber, and thereby prevents particles and other contaminants from entering the chamber during processing. Such lids are well known and conventional as shown, for example, by Tung et al. (See Fig. 3, item 80). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a lid to Sichmann et al. as shown, for example, by Tung et al. in order to provide a closed processing chamber, which thereby prevents particles and other contaminants from entering the chamber during processing.

Regarding claim 8, one of ordinary skill would choose obvious variants of the design for the drain holes, including a V-shape, as is within the purview and level of ordinary skill in the art for the intended function.

Regarding claim 9, the sidewall is configured to define a fluid catch area, each drain hole is in fluid communication with the fluid catch area (See Sichmann et al., Fig. 2, items 56 and 20).

Regarding claim 10, each drain hole has an inlet and outlet, wherein each inlet is oriented closer to a center of the spin bowl than the outlet (See Tung et al., Fig. 3, item 65).

Regarding claims 11 and 12, the angles at which the drain holes are oriented are considered to be within the claimed ranges, and more specifically about 45 degrees relative to the horizontal plane defined by the upper portion of the base (See Tung et al., Fig. 4, item 65).

Furthermore, claim 26 is rejected on similar grounds as claim 8. It is noted that Tung discloses V like structures at various drain location, including structure on Figure 3 formed by elements 62 and 70, which is V-like.

5. Claims 2, 4-6, 21-23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sichmann et al. as applied to claims 1 and 3 above, and further in view of Tung et al. Regarding claims 4 and 23, Sichmann while disclosing the lower portion of the base having drain holes is silent to the specific structure of such. One in the art would appreciate any conventional design for the drain holes for the intended function, such as a drain hole having an inlet and outlet wherein the inlet is oriented closer to the center of the spin bowl than the outlet, such a design is known and conventional and shown, for example, by Tung et al. (See Fig. 3, item 65). It would

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have been obvious to one of ordinary skill in the art at the time of the invention to provide Sichmann et al. with drain holes of any conventional design for the intended function, such as those described above and shown, for example, by Tung et al. It is noted that an express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982) (See also, MPEP 2144.06).

Regarding claim 2, one of ordinary skill would choose obvious variants of the design for the drain holes, including a V-shape, as is within the purview and level of ordinary skill in the art for the intended function.

Regarding claim 21, a spin bowl is disclosed comprising: a base and a sidewall that extends from the base, the base having an upper portion and a lower portion that intersects with the sidewall, the lower portion of the base having a plurality of drain holes formed therein proximate to the sidewall, the sidewall having an upper portion that extends upwardly from the base and a lower portion that extends downwardly from the base so as to at least partially define an external fluid catch area that receives excess fluid that drains from an interior of the spin bowl through the drain holes, the external fluid catch area being configured to retain the excess fluid while the spin bowl is spinning and thereby prevent the excess fluid from leaving the spin bowl at high velocity (See Col. 3, lines 3-15, Fig. 2, items 14, 56, 18-20).

Sichman does not disclose that the angle is about 30 to 60 degrees.

Tung discloses the angles at which the drain holes are oriented are considered to be within the claimed ranges, and more specifically about 45 degrees relative to the

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horizontal plane defined by the upper portion of the base (See Tung et al., Fig. 4, item 65). As noted above, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Sichmann et al. with drain holes of any conventional design for the intended function, such as those described above and shown, for example, by Tung et al.

Regarding claim 22, the lower portion of the sidewall is inclined inwardly so that a tip thereof is situated closer to a center of the spin bowl than a point at which the lower portion of the sidewall intersects with the upper portion of the sidewall (See Fig. 2, items 19 and 20).

Regarding claims 5-6 and 25, the angles at which the drain holes are oriented are considered to be within the claimed ranges, and more specifically about 45 degrees relative to the horizontal plane defined by the upper portion of the base (See Tung et al., Fig. 4, item 65).

Furthermore, claim 26 is

### ***Response to Arguments***

6. Applicant's arguments filed 11-26-2002 have been fully considered but they are not persuasive.

Applicant argues that the drain holes of Sichmann are on the sidewalls, and not base. This is not considered persuasive, because structure 56 is disclosed as being attached to item 14. Thus, the base can be interpreted as both items 14 and 56.

Claims are interpreted using the broadest possible language (MPEP 2111). The

broadest possible interpretation of the phrase "base" in this case would be to include item 56 of Sichmann as the base.

7. In response to applicant's argument with regard to claim 1 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the lid and other air sealing structures) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. In response to applicant's argument that Sichmann does not perform the air seal function, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (703) 305-3435 (TDD only). If the applicant cannot make a direct TDD-to-TDD call, the applicant can communicate by calling the Federal Relay Service at 1-800-877-8339 and giving the operator the above TDD number. The examiner can normally be reached on M-Th 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (703) 308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



George R. Koch III  
February 9, 2003



RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700